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PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

07-281

United States District Court		District: DELAWARE
Name (under which you were convicted): ROBERT EDWARD EATON		Docket or Case No.:
Place of Confinement : DEL. CORR. CNTR. SMYRNA, DE 19977		Prisoner No.: 00202059
Petitioner (include the name under which you were convicted) ROBERT EDWARD EATON		Respondent (authorized person having custody of petitioner) v. THOMAS L. CARROLL, WARDEN
The Attorney General of the State of DELAWARE		

PETITION

- (a) Name and location of court that entered the judgment of conviction you are challenging:
SUPERIOR COURT OF DELAWARE, KCO
38 THE GREEN
DOVER, DE 19901

(b) Criminal docket or case number (if you know): 9710000083
- (a) Date of the judgment of conviction (if you know): ??

(b) Date of sentencing: July 2, 1999
- Length of sentence: 24 years
- In this case, were you convicted on more than one count or of more than one crime? ☒ Yes ☐ No
- Identify all crimes of which you were convicted and sentenced in this case:
Aggravated Menacing; Poss. Deadly Weapon/Comm Felony
Assault 2nd; Reckless End. 1st; Assault 3rd; unlawful Imp. 2nd
- (a) What was your plea? (Check one)

☒ (1) Not guilty ☐ (3) Nolo contendere (no contest)
☐ (2) Guilty ☐ (4) Insanity plea



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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

N/A

(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☒ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: Del. Supreme Ct.

(b) Docket or case number (if you know): ?

(c) Result: Affirmed

(d) Date of result (if you know): ??

(e) Citation to the case (if you know): ??

(f) Grounds raised: ??

✱

(g) Did you seek further review by a higher state court? ☐ Yes ☒ No

If yes, answer the following:

(1) Name of court: N/A

(2) Docket or case number (if you know):

(3) Result: N/A

(4) Date of result (if you know): N/A

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(5) Citation to the case (if you know): N/A

(6) Grounds raised: N/A

(h) Did you file a petition for certiorari in the United States Supreme Court? ☐ Yes ☒ No

If yes, answer the following: N/A

(1) Docket or case number (if you know): N/A

(2) Result: N/A

(3) Date of result (if you know): N/A

(4) Citation to the case (if you know):

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☒ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: Superior Ct./ Kent Co.

(2) Docket or case number (if you know): 9710000083

(3) Date of filing (if you know): ??

(4) Nature of the proceeding: Rule 61 Motion for Post-Conviction relief

(5) Grounds raised: Ineffective Assistance of Counsel

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: Denied

(8) Date of result (if you know):

??

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(b) If you filed any second petition, application, or motion, give the same information:

- (1) Name of court: N/A
- (2) Docket or case number (if you know): N/A
- (3) Date of filing (if you know): N/A
- (4) Nature of the proceeding: N/A
- (5) Grounds raised: N/A

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☒ Yes ☐ No

- (7) Result: N/A
- (8) Date of result (if you know): N/A

(c) If you filed any third petition, application, or motion, give the same information:

- (1) Name of court: N/A
- (2) Docket or case number (if you know): N/A
- (3) Date of filing (if you know): N/A
- (4) Nature of the proceeding: N/A
- (5) Grounds raised: N/A

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No N/A

(7) Result:

N/A

(8) Date of result (if you know): N/A

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☐ Yes ☒ No

(2) Second petition: ☐ Yes ☐ No N/A

(3) Third petition: ☐ Yes ☐ No N/A

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

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12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: PETITIONER WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

PETITIONER HAD DIRECT CONFLICT OF INTEREST WITH COUNSEL
THAT PREVENTED HIM FROM ASSISTING COUNSEL IN HIS DEFENSE.

(b) If you did not exhaust your state remedies on Ground One, explain why:

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(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why:

Ineffective assistance of counsel cannot be raised on direct appeal.

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Rule 61 Motion/ Post conviction relief

Name and location of the court where the motion or petition was filed:

Del. Superior, Kent Co., Dover , DE 19901

Docket or case number (if you know): 9710000083

Date of the court's decision: ??

Result (attach a copy of the court's opinion or order, if available):

DENIED

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No N/A

(6) If your answer to Question (d)(4) is "Yes," state: N/A

Name and location of the court where the appeal was filed:

N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available):

N/A

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) **Other Remedies:** No other remedies filed for Ground 1.

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13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☐ Yes ☒ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: Ground 1 due to medical incapability.

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, ground or grounds have not been presented, and state your reasons for not presenting them:

N/A

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☒ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. Del.District Ct. Petition voluntarily dismissed due to being moved to maximum security during the 9-11 panic in 2001. Petitioner never received legal materials.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the raised.

N/A

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Sandra Dean, Dover ,DE

(b) At arraignment and plea: Sandra Dean

(c) At trial: Snadra Dean

(d) At sentencing: Mr. Whitehurst, Dover, DE

(e) On appeal: Whitehurst

(f) In any post-conviction proceeding: pro se

(g) On appeal from any ruling against you in a post-conviction proceeding:
N/A

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:
N/A

(b) Give the date the other sentence was imposed: N/A

(c) Give the length of the other sentence: N/A

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☒ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

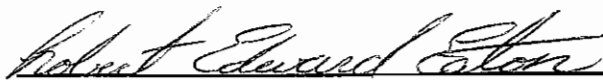
Therefore, petitioner asks that the Court grant the following relief:

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 5/17/07 (month, date, year).

Executed (signed) on 5/17/07 (date).



Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

IN FORMA PAUPERIS DECLARATION
U.S. District Ct./ Delaware

[insert appropriate court]

CERTIFICATE OF SERVICE

I, Robert E. Eaton, hereby certify that I have served a true and correct copy(ies) of the attached: PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF HABEAS CORPUS., upon the following parties/person(s):

(1) ONE ORIGINAL AND TWO(2) COPIES TO:

CLERK OF THE COURT
UNITED STATES DISTRICT COURT
844 N. KING STREET, LOCKBOX #18
WILMINGTON, DELAWARE, 19801

ONE(1) COPY TO: DEPUTY ATTORNEY GENERAL
APPEALS DIVISION
820 NORTH FRENCH STREET,
WILMINGTON, DELAWARE, 19801

Date: May 17, 2007

Signature: Robert E. Eaton

IM: Robert EATON
SB# 202057 UNIT 51
DELAWARE CORRECTIONAL CENTER
1181 PADDOCK ROAD
SMYRNA, DELAWARE 19977

U.S.M.S.
X-RAY



UNITED STATES DISTRICT COURT
c/o OFFICE OF THE CLERK
844 N. KING ST. LOCKBOX #18
WILMINGTON, DELAWARE
19801

LEGAL-MAIL

